

AMENDMENTS TO THE DRAWINGS:

Replacement Sheets are provided for Figures 2, 5, 9, 10, 11, 12, 20, 26-28, 40, 41, 44, 66-71 and 74 of the drawings

Figures 2, 9, 10, 12 have been amended to revise projection 6 to supporting projection 206.

Reference numeral "19" was added to Figure 5.

Reference numeral "29" is added to Figure 11.

The throughgoing hole "62" is amended from "61" in Figures 27-28.

Reference numeral "58" is added to Figure 26 and reference numeral "66" is added to Figure 28.

Reference numeral "86" is added to Figure 41.

Reference numerals "97" and "98" are added to Figure 44.

Reference numeral "112" is amended to --114-- in Figure 66.

Reference numeral "38" is amended to --118-- in Figs. 67, 68, 70 and 71.

Reference numeral "124" is added to Figure 69.

Figure 20 is amended to show the location of hole 199.

Figure 21 has been amended to add reference "51".

Figure 23 is amended to amend reference "6" to "306".

Figures 24-25 are amended to to amend reference "6" to "406".

The replacement sheets are labeled "Replacement Sheet" in the page header.

Attachment: Replacement Sheets

REMARKS

This amendment replaces the unentered amendment filed December 7, 2009. The December 7th amendment should remain unentered.

Claims 25-27 have not been rejected as under either section 102 as anticipated or under section 103 rendered obvious.

Accordingly, claim 25 has been amended to be in independent form, including the recitations of base claim 19 and any intermediate claims, taking into account the present formal rejections.

The Advisory Action indicated that claims 25-27 of the December 7th amendment would be allowable.

Further, during a subsequent telephone interview, the Examiner indicated that incorporation of the subject matter of prior claim 25 into claim 23 would render claim 23 allowed.

Claim 23 has been amended to incorporate the subject matter of prior claim 25.

Allowance of claims 23 and 25-27 is therefore solicited.

Substitute Specification

A substitute specification and marked-up copy thereof is attached.

No new matter is entered by way of this amendment.

Drawings

The Official Action objected to the drawings.

It is noted that the drawing figures have been labeled "replacement". The undersigned attorney appreciates this requirement having been called to our attention.

The drawing objections and amendments are as follows:

1. The drawings are objected to because reference numeral "6" denotes different structure between Figs. 1, 2, 10, 12, and 23.

Specification page 4, lines 4-7 states that "In all the provided embodiments said pedaling assembly 1 is supported by means of a supporting means 6 which may be carried out in principle in three different types which will be explained in greater detail below."

However, on specification page 5, it is stated that "As inferable from Figure 2, said supporting means 6 may be formed by a projection 6 which is integral with the bath 7 and may have a shape at will. In the shown example said projection is box-shaped and at the lower end thereof it is provided with a - non shown - throughgoing hole in which is supported a pedal assembly 1, for example as illustrated in Figures 5 to 7." The projection 6 has been amended to be "supporting projection 206" in both the drawings and specification.

The Advisory Action noted that page 7, line 7 and line 12 appeared to require revision.

Figure 21 has been amended to add reference "51". The specification is amended to read:

"The body apparatus 47 of the embodiment of Figure 21 is provided at the lower end with a supporting throughgoing hole 38 for supporting a pedaling assembly 1 and, at the top, with a profiled head 48. The latter may be removably inserted in a corresponding seat 49 provided in an intermediate stock-like supporting element 51 the lower end 52 of which may be inserted in a corresponding, not shown, seat in the bath upper lip."

"The embodiment shown in Figure 22 has a similar apparatus body 47 whose profiled head 48 may be inserted in a corresponding seat 49 provided in the bath 7."

Further, the Figure 23 illustrated supporting means as been amended as element 306 in the specification and drawing. In Figures 24-25 the reference "6" is amended to "406" to indicate the supporting means 6 is a box-shaped element 406.

The amended specification reads:

"Figure 23 shows a back or shower panel 52 with the supporting means 6 for supporting a not shown pedaling assembly. The supporting means is a U shaped element 306."

"In the embodiment of Figure 24 and 25 the supporting means 6 is a box-shaped element 406 and provided with, in the example, two coupling collars 54 which are fastened to the cover

31 and may be inserted in two supporting pins 56 fixed to the bath lip 44."

This is believed to address the issues raised in the Advisory Action.

Withdrawal of this objection is therefore solicited.

2. Reference numeral "19" (pg. 5 ln. 6) was missing from Figure 5. Reference numeral "19" is added to Figure 5.

3. Reference numeral "29" (pg. 6 ln. 1) was missing from Figure 11. Reference numeral "29" is added to Figure 11.

4. Reference numeral "61" apparently should be --62-- in Figs. 27 and 28 (pg. 7 ln. 26). The throughgoing hole 62 is amended in Figures 27-28.

5. Reference numerals "58" and "66" (pg. 7 lns. 22 and 30) are missing. Reference numeral "58" is added to Figure 26 and reference numeral "66" is added to Figure 28.

6. Reference numeral "86" (pg. 8 ln. 22) is missing. Reference numeral "86" is added to Figure 41.

7. Reference numerals "97" and "98" (pg. 9 lns. 4 and 7) are missing. Reference numerals "97" and "98" are added to Figure 44.

8. Reference numeral "112" apparently should be --114-- in Fig. 66 (pg. 10 ln. 2). Reference numeral "112" is amended to --114-- in Figure 66.

9. Reference numeral "38" apparently should be --118-- in Figs. 67, 68, 70 and 71 (pg. 10 ln. 6). Reference numeral "38" is amended to --118-- in Figs. 67, 68, 70 and 71.

10. Reference numeral "124" (pg. 10 ln. 17) is missing. Reference numeral "124" is added to Figure 69.

Applicant believes that the above addresses each of the stated objections to the drawings. Accordingly, withdrawal of all the drawing objections is solicited.

The replacement sheets are labeled "Replacement Sheet" in the page header. Entry of these amendments is solicited.

Specification Objections

The specification has been amended to refer to supporting means 6 and supporting projection 206 consistently.

The specification has been amended so that element "51" consistently refers to the seat 51.

The first instance of "52" has been canceled to avoid the noted confusion.

These amendments are believed to fully address the noted objections.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Official Action referred to lack of proper antecedent basis for the "home bath" and "in a sidewall of" feature set forth in claim 19, and "coupled to" feature set forth in claim 20, could not be found in the specification.

In the summary of the invention section of the specification, it was disclosed (emphasis added) that "With the proposed pedaling assemblies it is, therefore, possible to carry out pedaling exercises at home, at any time and as frequent as wished, and enjoy the healthy benefits of physical activities immersed in water."

One of skill would appreciate that to carry out pedaling exercises at home, the bath would necessarily be at the home and hence a "home bath".

The "in a sidewall of" objection relates to the recitation of "a seat integrally formed in a sidewall of said bath body housing".

The bath sidewalls are identified as element 17, see Figures 12. The seat is identified as element 9 in Figure 3; elements 33 in Figure 13. On original specification page 6, line 12 it is disclosed that "bath seats 33 which are provided in the bath sidewalls 17".

Attention is directed to the disclosure at original specification page 6, beginning with line 19: "Figures 18 - 20 show a pedaling apparatus 8 comprising a plastic apparatus body 37 provided at the lower end with a supporting troughgoing hole 38 and at the top a seat 39 for housing the transverse leg 41 of an intermediate T-shaped supporting element 42 the vertical leg 43 of which may be housed in a not shown corresponding seat or

hole in the upper lip 44 of the bath 7. The use of this pedaling apparatus is shown in Figure 42."

With reference to claim 23, there is disclosed a bath comprising: a body housing (7, figure 2); and a pedaling apparatus (8, Figure 3) for carrying out pedaling exercises.

As disclosed, the bath (7) is provided with a seat, the seat being a hole (199, Figure 20) provided in an upper lip (44, Figure 20) of the bath body housing. Figure 20 is amended to show the location of hole 199.

Further, the pedaling apparatus (8) is provided with a supporting means (42, figures 18-19) which is adapted to be removably housed in said seat in said bath body housing.

Finally, the pedaling apparatus is mounted in said seat by the supporting means (42).

The pivoting nature provided by the supporting means (42) being seated in the hole (199) is clear to one of skill in the art. See a similar arrangement with respect for Figures 80-83 where the pivoting is explicit.

With respect to claims 25-26, the claims also require that the supporting means includes an intermediate T-shaped supporting element (42, Figure 18) having a transverse leg (41, Figure 18) and a vertical leg (43, Figure 18).

Further, the claims require that the pedaling apparatus body (37) further comprises i) a throughgoing hole (38, Figure 18) in a lower part thereof, wherein the throughgoing hole (38,

Figure 18) houses an axle (4, Figures 5-7, 20) of said pedaling apparatus (8), and ii) a seat (39, Figure 18) formed in an upper part thereof.

As to claim 26, there is recited that the transverse leg (41, Figure 19) of said intermediate T-shaped supporting element (42, Figure 19) is housed in said seat (39, Figure 19) of said pedaling apparatus body (37, Figure 19).

In view of the claim recitations, and the supporting specification and drawing disclosures, withdrawal of the objections is solicited.

Specification New Matter

The amendment filed April 16, 2009 was objected to under 35 U.S.C. 132(a) because it was alleged to introduce new matter into the disclosure.

Without prejudice or acknowledging/accepting the introduction of new matter, this added material has been canceled.

Section 112, first paragraph

Claims 19, 20 and 23-27 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The "integrally formed" recitation has been removed, without prejudice or accepting that this recitation contained new matter.

The recitation of "pivotaly" has been removed, without prejudice or accepting that this recitation contained new matter.

Thus, the claims have been amended to remedy the stated basis of rejection. Withdrawal of this rejection is solicited.

Section 112, second paragraph

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims have been amended to remedy the stated basis of rejection. Withdrawal of this rejection is solicited.

Rejections under 35 USC 103

Claims 19, 20 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Butler '447 and Fernie et al.

Claims 19, 20 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoboski, Galasso et al. and Fernie.

These rejections are moot in view of the claims being canceled.

Summary

Only allowable claims remain. Allowance of the remaining claims is respectfully requested.

Entry of the above amendments is earnestly solicited. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

This response is believed to be fully responsive and to put the case in condition for allowance. An early and favorable action on the merits is earnestly requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- Replacement Sheets for Figures 2, 5, 9, 10, 11, 12, 20, 21, 23-28, 40, 41, 44, 66-71 and 74 of the drawings
- a Substitute Specification and a marked-up copy of the originally-filed specification